

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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STEVE HOOD,

Case No. 2:23-cv-01055-RFB-BNW

Plaintiff,

Case No. 2:23-cv-01075-CDS-DJA

V.

FREDERICK G. THIEL, *et al.*,

CONSOLIDATION ORDER

Defendants.

GARY KONIGSBERG.

Plaintiff.

v

FREDERICK G. THIEL, *et al.*,

Defendants.

I. ORDER CONSOLIDATING CASES

On July 8, 2023, Plaintiff Steve Hood filed a shareholder derivative action behalf of Nominal Defendant Marathon Digital Holdings, Inc. in this Court, Case 2:23-cv-01055-RFB-BNW, alleging claims for breach of fiduciary duty, unjust enrichment, waste of corporate assets, and violations of Sections 14(a) of the Securities and Exchange Act (“SEA”) of 1934 against defendants Georges Antoun, Kevin A. DeNuccio, Hugh Gallagher, Sarita James, Jay Leupp, Doug Mellinger, Merrick Okamoto, Said Ouissal, Simeon Salzman, and Fred Thiel (collectively, “Defendants”), and for contribution under Sections 10(b) and 21D of the SEA against certain of the Defendants. Four days later, Plaintiff Gary Konigsberg also filed a shareholder derivative

1 action on the Nominal Defendant's behalf, asserting similar claims against the same Defendants
 2 for the same alleged conduct before the Honorable Cristina D. Silva, Case 2:23-cv-01075-CDS-
 3 DJA.

4 Pursuant to Federal Rule of Civil Procedure 42(a) and Local Rule 42-1(b), district courts
 5 have the authority to consolidate cases involving common questions of law or fact. On July 31,
 6 2023, the parties filed in both actions a Stipulation to consolidate these cases pursuant to Federal
 7 Rule of Civil Procedure 42(a). See 2:23-cv-01055-RFB-BNW, ECF No. 32; 2:23-cv-01075-CDS-
 8 DJA, ECF No. 18. The undersigned district judges presiding over these cases have reviewed the
 9 record of both cases and find that the subject matter of, and parties to, the cases substantially
 10 overlap. The undersigned district judges further find that judicial economy will be served by
 11 transferring both cases to a single District Court Judge and Magistrate Judge.

12 II. CONCLUSION

13 **IT IS ORDERED** that the above-referenced cases shall be consolidated.

14 **IT IS FURTHER ORDERED** that the parties' Stipulations to Consolidate (2:23-cv-
 15 01055-RFB-BNW, ECF No. 32; 2:23-cv-01075-CDS-DJA, ECF No. 18) are **GRANTED**. Cases
 16 2:23-cv-01055-RFB-BNW and 2:23-cv-01075-CDS-DJA are consolidated, with Case 2:23-cv-
 17 01055-RFB-BNW serving as the lead case. Further, all future filings in these cases shall be filed
 18 in the lead case bearing the following caption: In re Marathon Digital Holdings, Inc. Derivative
 19 Litigation, Lead Case No. 2:23-cv-01055-RFB-BNW.

20 **IT IS FURTHER ORDERED** that this Order shall apply to each shareholder derivative
 21 action arising out of the same, or substantially the same, transactions or events as this consolidated
 22 action, which is subsequently filed in, removed to, reassigned to, or transferred to this Court. When
 23 a shareholder derivative action that properly belongs as part of In re Marathon Digital Holdings,
 24 Inc. Derivative Litigation, Lead Case No. 2:23-cv-01055-RFB-BNW, is filed, removed, or
 25 reassigned to this Court, or transferred here from another court, counsel will call the Clerk of
 26 Court's attention to the filing, removal, reassignment, or transfer of any case that might properly
 27 be consolidated as part of In re Marathon Digital Holdings, Inc. Derivative Litigation, Lead Case

1 No. 2:23-cv-01055-RFB-BNW, and counsel will ensure that counsel in subsequent actions receive
2 notice of this Order. Unless otherwise ordered, the terms of all orders, rulings, and decisions in
3 this consolidated action shall apply to all later substantially similar shareholder derivative actions
4 filed in this Court, removed or reassigned to this Court, or transferred here from another court.

5 **IT IS FURTHER ORDERED** that within **fourteen (14) days** of consolidation and then
6 selection of lead counsel for Plaintiffs in the consolidated action, the Parties shall meet and confer
7 and submit a proposed schedule for the filing of a consolidated complaint and answers, motions to
8 dismiss, and/or other responses.

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10 **DATED:** August 14, 2023

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE



CRISTINA D. SILVA
UNITED STATES DISTRICT JUDGE